

**PERSONNEL**

Employment Conditions: Contagious and Infectious Diseases -  
Human Immunodeficiency Virus (HIV)/Acquired Immune  
Deficiency Syndrome (AIDS)

A. Purpose

To establish policy regarding employees who are infected with the Human Immunodeficiency Virus (HIV).

B. Background of HIV and AIDS

Acquired Immune Deficiency Syndrome (AIDS) is a serious condition characterized by a defect in natural immunity against disease. This defect is caused by HIV (Human Immunodeficiency Virus) infection - the so-called "AIDS Virus," which can destroy important cells in the immune system. With this loss in immune response, the individual falls prey to a host of what are called "opportunistic infections" and tumors. AIDS is the most serious form of HIV infection.

The diagnosis of Acquired Immune Deficiency Syndrome (AIDS) is made when an AIDS related condition occurs. These include pneumonia, encephalitis (inflammation of the brain) and a skin cancer - Karposi's sarcoma.

A person who becomes infected with HIV may develop unusual infections or tumors not ordinarily seen in otherwise healthy persons. It is important to note, however, that not all HIV infected individuals develop these opportunistic infections and/or tumors which characterize AIDS. It is important to be aware that AIDS itself is not transmitted; the AIDS virus is.

HIV is not transmitted through casual contact. It is specifically transmitted through sexual contact, by sharing needles, and from an infected mother to her new born. Contracting HIV infection through blood transfusion is extremely unlikely if the transfusion occurred after June, 1985. this is because all blood used for transfusions has been tested for HIV since that date.

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C. AIDS-Related Complex (ARC)

ARC is a term used to characterize an AIDS-related condition that carries a significant, but still imprecisely determined likelihood of progressing to full-blown AIDS. The usual manifestation of ARC includes prolonged fever, unexplained weight loss, swollen lymph glands and fungus infection of the mouth and throat.

D. Employees Diagnosed with AIDS

The school board recognizes the public concern over the spread of Human Immunodeficiency Virus (HIV) and the employment of staff who suffer from this disease. The school board also recognizes its dual responsibility to protect the rights of individual employees infected with the HIV and to provide a safe environment for students, staff, and the public. The school board further recognizes that the virus associated with AIDS is not easily transmitted, and according to current medical knowledge and guidelines issued by the U.S. Centers for Disease Control, there is no evidence that AIDS can be transmitted by casual contact.

Employees who have HIV or an HIV-related condition shall be permitted to continue in their present assignment as long as they are medically able to do so, are performing their jobs satisfactorily, and are not likely to expose other employees and students to open skin lesions, or other body fluids. In each case, risks and benefits to both the infected employee and to others in the work place should be weighed.

The decision in whether and when to disclose the diagnosis to others is a very personal one for the individual with AIDS or the HIV infection. As with other terminal illnesses, many people with fully developed AIDS choose not to disclose the illness to supervisors and co-workers. The decision rests solely with the employee.

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D. Employees Diagnosed with AIDS (continued)

According to Virginia law, an employee's medical record is personal information and such information, if in the possession of the employer, is not subject to mandatory disclosure under the Freedom of Information Act. The employer, because of the right to confidentiality, should not disclose the information to anyone without the consent of the employee and the primary care physician or unless required for job-related reasons as determined, on a case-by-case basis by the Assistant Superintendent for Administration and Personnel in consultation with the Director of the Department of Public Health for Stafford County.

Any and all records pertaining to the medical condition of an employee with HIV or who has an HIV-related condition shall be placed in a sealed file with the concurrence of the employee. The Assistant Superintendent for Administration and Personnel shall maintain and with the employee, or designee, shall have access to the sealed file.

In all cases of illness, including AIDS, the employee's supervisor may not request or require a diagnosis of a particular illness, except as required for information as to whether an employee is capable of performing a specific job without hazard to him or herself or to the school community or to process medical disability claims.

To justify the use of sick leave, the employee may be asked for a physician's certification describing the disability, stating that the employee was unable be reason of the disability to be on duty the entire period covered by the application and, where extended absence is indicated, the probable duration of the disability.

If the employee discloses the illness, supervisors should respond just as they would for any other serious illness. In the event that the employee is not able to continue working, he/she is eligible for the same benefits

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D. Employees Diagnosed with AIDS (continued)

as other employees temporarily or permanently disabled by illness including, but not limited to, sick leave, sick leave bank, and state disability retirement. The benefits available in any particular case will be determined in accordance with the terms then in effect of the benefit policy or plan under which benefits are sought, as interpreted in the discretion of the administrator of that plan or policy. Benefit plans and policies available to Stafford County Public Schools employees are subject to change from time to time at the school board's discretion.

To protect the health of employees with AIDS, such employees should be provided with information concerning the presence in the general school population of a contagious or communicable disease which constitutes a risk to the affected individual. The employee should be encouraged to review the circumstances of the work environment with his/her physician.

E. Procedures

1. Decisions regarding employment and working conditions of HIV infected employees should be based upon the employee's work assignment, whether they are able to complete assigned work and whether they are likely to expose other workers and students to open skin lesions or other body fluids. As employee's terms and conditions of employment shall not be altered solely because such employee has been diagnosed as having AIDS or HIV.
2. Employees who are infected with HIV need not routinely inform school officials unless their physicians advise them that a significant health problem will prevent them from doing their job or their illness requires special accommodation on the job, or that transmission to others may occur through specific activities or routes such as

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E. Procedures (continued)

lacking control of body fluids, lesions,  
bleeding, aggressive behavior, etc.

3. Where identified, an employee with an HIV-related condition may be requested to provide medical information from the employee's physician in the following:
  - a. If the employee has requested accommodations such as modification of the employee's position, or reassignment to another position because of the employee's HIV-related condition.
  - b. If the employee's medical condition appears to be affecting that employee's job performance.
  - c. If the employee's condition constitutes a direct threat or imminent danger to other individuals in the school community whose life or health may unknowingly be at significant risk as a result of contact with the affected employee.
4. An employee diagnosed with a contagious and infectious (including AIDS or and HIV-related) medical condition may request modification of his/her assignment, reassignment to another position, or other reasonable accommodation. Such requests shall be submitted on writing to the Assistant Superintendent for Administration and Personnel.
5. The preliminary decision regarding the request for modification of assignment, reassignment to another position or other reasonable accommodation shall be made by a medical review committee composed of the employee's physician, the public health director or physician designee,

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and members of the administrative staff with knowledge of the employee's job assignment.

6. The medical review committee shall meet within fourteen (14) calendar days after receiving the written request from the superintendent.
7. After reviewing all pertinent information about the employee and, if deemed appropriate by the committee, consulting with the employee and/or his or her agent, the committee shall make a recommendation to the superintendent.
8. The superintendent will notify the employee of the decision within five (5) working days after receiving the committee's recommendation.
9. The employee may appeal the superintendent's decision to the school board. The request for such appeal must be submitted to the superintendent in writing within ten (10) calendar days of the date of the superintendent's decision. Failure to request an appeal within the specified time will constitute a waiver of the right appeal to the school board.
10. A plan for a periodic review of the employee's medical condition by the medical review committee will be established at the time the initial decision is made.

**F. Employee Education and Information**

In cooperation with the Stafford County Department of Health, the superintendent shall implement as ongoing information and education program for school system employees relative to HIV infection to ensure that all employees are informed in a consistent manner about:

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Deficiency Syndrome (AIDS) (continued)F. Employee Education and Information (continued)

1. The nature of HIV infection, including how it is and is not transmitted according to current medical research.
2. Procedures related to employees with AIDS and HIV infection including confidentiality of information.
3. The routine sanitary procedures for dealing safely with all spills of blood or other body fluids in or on school board property.
4. Resources within the school community for obtaining additional information or assistance.
5. Preventative procedures for avoiding the spread of infectious diseases.
6. The emotional/behavioral aspects relating to HIV issues.

Legal Reference: Through June 30, 1997

Code of Va., §32.1-35. List and reports of diseases.—  
"The Board shall promulgate from time to time a list of diseases, including diseases caused by exposure to any toxic substance as defined in §32.1-239, which shall be required to be reported. The board may classify such diseases and prescribe the manner and time of reporting."  
(1979)

Virginia State Board of Health, Regulation #3.00.01. List of reportable Diseases. "Acquired Immune Deficiency Syndrome (AIDS)..."

Code of Va., §32.1-36. Reports by physicians and laboratory directors. (1995)

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Code of Va., §32.1-36.1. Confidentiality of test for  
human immunodeficiency virus; civil penalty; individual  
action for damages and penalty. (1993)

Code of Va., §32.1-37. Reports by persons other than  
physicians. (1979)

Code of Va., §32.1-38. Immunity from liability.—"Any  
person making a report required by this chapter shall be  
immune from civil liability or criminal penalty connected  
therewith unless it is proved that such person acted with  
malicious intent. Neither the Commissioner nor any local  
health director shall disclose to the public the name of  
any person making a report pursuant to this chapter."  
(1990)

Code of Va., §32.1-41. Anonymity of patients and  
practitioners to be preserved in use of medical records.  
(1979)

Code of Va., §22.1-301. Costs of medical examinations  
and of furnishing medical records.—"It shall be unlawful  
for any school board to require any instructional employee  
to pay the costs of a medical examination or the cost of  
furnishing medical records required as a condition to  
continued employment. Nothing in this section shall  
prohibit the immediate supervisor from requesting an  
employee to submit a physician's certificate verifying the  
illness of an employee at the employee's expense." (1980)

Code of Va., Title 32.1. Chapter 2. Article 3.01.  
Isolation of Certain Persons with Communicable Diseases.  
(1993)

Code of Va., §22.1-272. Contagious and infectious  
diseases.—Persons suffering with contagious or infectious  
disease shall be excluded from the public schools while in  
that condition. (1980)

Adopted by School Board: June 9, 1992